

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN SENATE APRIL 25, 2007

AMENDED IN SENATE APRIL 9, 2007

AMENDED IN SENATE MARCH 26, 2007

## SENATE BILL

**No. 5**

---

### Introduced by Senator Machado

December 4, 2006

---

~~An act to amend Section 65584.04 of, and to add Sections 65302.7, 65405, 65860.1, 65962, and 66474.5 to, the Government Code, to add Section 50465 to the Health and Safety Code, and to amend Sections 8370 and 12878.1 of, and to add Article 8 (commencing with Section 8724) to Chapter 3 of Part 4 of Division 5 of, the Water Code, relating to flood management. An act to add Sections 65007, 65302.9, 65860.1, 65865.5, 65962, and 66474.5 to, the Government Code, to add Section 50465 to the Health and Safety Code, and to add Chapter 4 (commencing with Section 8200) to Part 1 of, and to add Part 6 (commencing with Section 9600) to, Division 5 of, the Water Code, relating to flood management.~~

#### LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Machado. Flood management.

*(1) The Planning and Zoning Law requires a city, county, and city and county to adopt a comprehensive, long-term general plan for the physical development of the city, county, or city and county that addresses a number of elements. The law authorizes the legislative body of a city or county to adopt zoning ordinances regulating, among other*

*things, the use of buildings, structures, and land. The law authorizes a city or county to enter into a development agreement with a person having a legal or equitable interest in real property for the development of the property.*

*This bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 24 months of the adoption of a specified flood protection plan by the Central Valley Flood Protection Board, to amend its general plan to include data and analysis contained in that flood protection plan, goals and policies for the protection of lives and property that will reduce the risk of flood damage, and related feasible implementation measures. The bill would require each city, including a charter city, and county within the Sacramento-San Joaquin Valley, within 36 months of the adoption of that flood protection plan but not more than 12 months after the amendment of the general plan under the bill's provisions, to amend its zoning ordinance so that it is consistent with the general plan, as amended. By establishing requirements on cities and counties, the bill would impose a state-mandated local program.*

*On the effective date of those amendments, a city, including a charter city, and county with the Sacramento-San Joaquin Valley would be prohibited from entering a development agreement for any property that is located within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence. On the effective date of those amendments, a city, including a charter city, and county within the Sacramento-San Joaquin Valley would also be prohibited from approving any discretionary permit or entitlement, or any ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county makes certain findings, based on substantial evidence.*

*(2) The Subdivision Map Act requires the legislative body of a city or county to deny approval of a tentative map, or a parcel map for which a tentative map was not required under certain circumstances.*

*The bill, after the amendments to the general plan and the zoning ordinance described in (1) have become effective, would require the legislative body of each city, including a charter city, and county within the Sacramento-San Joaquin Valley to deny approval of a tentative map, or a parcel map for which a tentative map was not required, for any subdivision that is located within a flood hazard zone unless the city or county makes specified findings, based on substantial evidence.*

(3) *The Department of Water Resources performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas.*

*This bill would require the department, on or before December 13, 2010, to prepare a strategic flood protection plan for the Sacramento-San Joaquin Valley. The department would be required to prepare a plan identified as the Central Valley Flood Protection Plan not later than January 1, 2012, and the Central Valley Flood Protection Board would be required to adopt the plan not later than July 1, 2012. The bill would require the plan to include specified components, including a description of the Sacramento-San Joaquin River Flood Management System, a description of the facilities included in the State Plan of Flood Control, an evaluation of the structural improvements necessary to bring each of the facilities of the State Plan of Flood Control to within its design standard, and a list of facilities recommended to be removed from the State Plan of Flood Control. The plan would be required to be updated every 5 years.*

*The bill would authorize the department to implement certain flood protection improvements before the adoption of the plan if the Director of Water Resources makes a specified determination. Upon the adoption of the plan by the board, certain facilities would be deemed to be a part of the Sacramento-San Joaquin River Flood Management System, and the board would be required to take action necessary to remove facilities from the State Plan of Flood Control that are recommended for removal in the plan.*

*The bill would require the department, on or before January 1, 2009, to propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where levels are anticipated to exceed 3 feet for the 200-year flood event. The department would be required to develop a cost-sharing formula for specified bond funds for repairs or improvements of facilities included in the plan. The bill would require the department, on or before September 1, 2010, and annually thereafter, to provide written notice to each landowner whose property is determined to be entirely or partially within a flood hazard zone.*

*The bill would require each county, consistent with the adoption of the plan, to collaborate with cities within its jurisdiction to develop*

*flood emergency plans. The bill would require each city, including a charter city, and county, consistent with the adoption of the plan, to collaborate with the state and local flood management agencies to provide cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas and to develop funding mechanisms to finance local flood protection responsibilities. By establishing new land use planning requirements on cities and counties, the bill would impose a state-mandated local program. The bill would authorize a local agency to prepare a local plan of flood protection in according with specified requirements.*

*(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

*(5) The bill would become operative only if AB 5 and SB 17 are enacted and become operative.*

~~(1) The existing Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. That existing act requires the compilation of a state plan of flood control.~~

~~The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$5,388,000,000 to fund projects and expenditures relating to safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.~~

~~This bill would make legislative findings and declarations regarding the necessity of developing a comprehensive integrated flood policy and flood management program that addresses all aspects of flood management, clarifying the roles and responsibilities of the state, local~~

~~flood management agencies, cities and counties, developers, and property owners as part of an integrated flood policy, making flood risks more apparent, and integrating the flood-related funding authorized by those bond acts with the integrated flood policy and flood management program.~~

~~This bill would require the department to develop by January 1, 2010, a cost-sharing formula, as needed, for funds made available by those bond acts for repairs or improvements of facilities of the plan described in (2) below to determine the local share of the cost of design and construction.~~

~~(2) The Department of Water Resources performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas.~~

~~This bill would require the department no later than January 1, 2013, to prepare the Sacramento-San Joaquin River Flood Management System Plan. The bill would require the board to adopt the plan no later than July 1, 2013. The plan would be required to be updated in years ending in 0 and 5.~~

~~The bill would require the plan to include specified components, including a description of the Sacramento-San Joaquin River Flood Management System, a description of the performance of the system and challenges to modifying the system to provide appropriate levels of flood protection, and findings and recommendations with regard to structural and nonstructural projects that, upon completion, will significantly reduce flood risks within the Sacramento and San Joaquin Rivers drainage. The department would be required to include in the plan evaluations of the methods for improving the performance of the system, the structural and nonstructural improvements necessary to bring each of the facilities of the State Plan of Flood Control for the Central Valley, as defined, to within its design standard, methods for providing an urban level of flood protection, as defined, to urbanized areas, and methods for reducing flood risks in nonurbanized areas.~~

~~Upon the adoption of the plan by the board, specified facilities would be deemed to be part of the system and the board would be required to take action necessary to remove certain facilities from the State Plan of Flood Control for the Central Valley. The department would be required to prepare, and the board to adopt, a schedule of implementation~~

~~for recommended actions at the same time as the preparation and adoption of the plan.~~

~~The bill would also require specified local governments, within 24 months of the adoption of the plan by the board, to amend the general plan to include (A) the data and analysis contained in the plan, as specified, (B) goals, policies, and objectives based on the data and analysis contained in the plan, and (C) feasible implementation measures designed to carry out the goals, policies, and objectives, and would require the board, the department, and local flood agencies to collaborate with cities and counties by providing information, other technical assistance, and to develop funding mechanisms to finance local flood responsibilities, as specified. The bill would require each local government, as specified within 36 months of the adoption of the plan by the board, to amend its zoning ordinance so that the zoning ordinance is consistent with the amendments to the general plan. The bill would also require local governments, within 36 months of the adoption of the plan by the board, but not more than 12 months after the required amendment of the general plan, to identify each parcel of real property that is protected by specified flood management facilities, each parcel of real property that is located in a flood hazard zone, as defined, and mail notice to the owner of those identified properties, as specified.~~

~~The bill would require specified local governments, after the required amendment to the general plan, the amendment of the zoning ordinance, and the notification to property owners discussed above, to deny approval for any discretionary permit or other discretionary entitlement for use, or any ministerial permit that would result in the construction of a new residence, for use for a project that is located within an area protected by specified flood management facilities, or located within a flood control area, and to deny approval of a tentative map, or a parcel map, for any subdivision that is located within an area protected by specified flood management facilities, or is located within a flood control area unless the local government makes certain findings. Each county would also be required to collaborate with the cities within its jurisdiction to develop flood emergency plans within 24 months of the adoption of the plan by the board.~~

~~The imposition of the above requirements on specified local governments would impose a state-mandated local program.~~

~~(3) The Planning and Zoning Law requires at least 2 years prior to a scheduled revision of a local government's housing element that each council of governments, or delegate subregion, as applicable, develop~~

~~a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to specified provisions. That law requires that the methodology be consistent with specified objectives that include, among other things, a determination of the availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.~~

~~The bill would provide that the determination of available land suitable for urban development may exclude lands where the flood management infrastructure designed to protect the jurisdiction is not adequate to avoid the risk of flooding such that the development of housing would be impractical due to cost or other considerations.~~

~~(4) Existing law requires the California Building Standards Commission to receive proposed building standards from state agencies for consideration in an annual code adoption cycle, as specified.~~

~~This bill would require the Department of Housing and Community Development, in consultation with the Office of the State Architect, the State Fire Marshal, the Reclamation Board, and the Department of Water Resources, by January 1, 2009, to consider whether to propose to the California Building Standards Commission for adoption and approval, updated requirements to the California Building Standards Code, that apply to construction in an area protected by facilities of the Sacramento-San Joaquin River Flood Management System Plan, as specified.~~

~~(5) Existing law provides that the Department of Water Resources has supervisory powers over the maintenance and operation of the flood control works of the Sacramento River Flood Control Project.~~

~~This bill would impose duties upon the department in connection with the maintenance and operation of certain works of this project.~~

~~This bill would require local agencies, except as provided, as a condition of accepting certain funds, to agree to provide the department an operations and maintenance plan that puts forth their responsibilities in connection with the Sacramento River Flood Control Project, as provided.~~

~~(6) The bill would make legislative findings and declarations that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern.~~

~~(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 65007 is added to the Government Code,  
2     to read:  
3     65007. As used in this title, the following terms have the  
4     following meanings, unless the context requires otherwise:  
5     (a) “Adequate progress” means that the local flood management  
6     agency has provided information to the Department of Water  
7     Resources and the Central Valley Flood Protection Board that is  
8     sufficient to determine that substantial completion of the flood  
9     protection system meets all of the following:  
10    (1) The total project scope, schedule, and cost of the completed  
11    flood protection system have been identified and the flood control  
12    project has been fully designed and permitted to meet the  
13    appropriate standard of protection.  
14    (2) Revenues sufficient to fund each year of the project schedule  
15    developed in paragraph (1) have been identified and, in any given  
16    year and consistent with that schedule, at least 90 percent of the  
17    revenues scheduled to have been received by that year have been  
18    appropriated and are currently being expended.  
19    (3) Critical features of the flood protection system are under  
20    construction, and each critical feature is progressing as indicated  
21    by the actual expenditure of the construction budget funds.  
22    (4) The city or county has not been responsible for any  
23    significant delay in the completion of the system.  
24    (5) The local flood management agency shall annually report  
25    to the Central Valley Flood Protection Board on their efforts in  
26    working toward completion of the flood protection system.  
27    (b) “Developed area” has the same meaning as that set forth  
28    in Section 59.1 of Title 44 of the Code of Federal Regulations.



1 (c) “Flood hazard zone” means an area subject to flooding that  
2 is delineated as either a special hazard area or an area of moderate  
3 or minimal hazard on an official flood insurance rate map issued  
4 by the Federal Emergency Management Agency or an area  
5 identified by the Department of Water Resources in the Central  
6 Valley Flood Protection Plan as an area of statewide interest. The  
7 identification of flood hazard zones does not imply that areas  
8 outside the flood hazard zones, or uses permitted within flood  
9 hazard zones, will be free from flooding or flood damage.

10 (d) “Nonurbanized area” means a developed area or an area  
11 outside a developed area in which there are less than 10,000  
12 residents.

13 (e) “Sacramento-San Joaquin Valley” means any lands in the  
14 bed or along or near the banks of the Sacramento River or San  
15 Joaquin River, or any of their tributaries or connected therewith,  
16 or upon any land adjacent thereto, or within any of the overflow  
17 basins thereof, or upon any land susceptible to overflow therefrom.  
18 The Sacramento-San Joaquin Valley does not include lands lying  
19 within the Tulare Lake basin.

20 (f) “Urban area” means a developed area in which there are  
21 10,000 residents or more.

22 (g) “Urbanizing area” means a developed area or an area  
23 outside a developed area that is planned or anticipated to have  
24 10,000 residents or more.

25 (h) “Urban level of flood protection” means the level of  
26 protection that is necessary to withstand flooding that has a  
27 1-in-200 chance of occurring in any given year.

28 SEC. 2. Section 65302.9 is added to the Government Code, to  
29 read:

30 65302.9. (a) Within 24 months of the adoption of the Central  
31 Valley Flood Protection Plan by the Central Valley Flood  
32 Protection Board pursuant to Section 9612 of the Water Code,  
33 each city and county within the Sacramento-San Joaquin Valley,  
34 shall amend its general plan to contain all of the following:

35 (1) The data and analysis contained in the Central Valley Flood  
36 Protection Plan, including, but not limited to, the locations of the  
37 facilities of the State Plan of Flood Control, the locations of other  
38 flood management facilities, the locations of the real property  
39 protected by those facilities, and the locations of flood hazard  
40 zones.

1 (2) Goals, policies, and objectives, based on the data and  
2 analysis identified pursuant to paragraph (1), for the protection  
3 of lives and property that will reduce the risk of flood damage.

4 (3) Feasible implementation measures designed to carry out  
5 the goals, policies, and objectives established pursuant to  
6 paragraph (2).

7 (b) To assist each city or county in complying with this section,  
8 the Central Valley Flood Protection Board, the Department of  
9 Water Resources, and local flood agencies shall collaborate with  
10 cities or counties by providing them with information and other  
11 technical assistance.

12 (c) In implementing this section, each city and county, both  
13 general law and charter, within the Sacramento-San Joaquin  
14 Valley, shall comply with this article, including, but not limited  
15 to, Sections 65300.5, 65300.7, 65300.9, and 65301.

16 (d) Notwithstanding any other provision of law, this section  
17 applies to all cities, including charter cities, and counties within  
18 the Sacramento-San Joaquin Valley. The Legislature finds and  
19 declares that flood protection in the Sacramento and San Joaquin  
20 Rivers drainage areas is a matter of statewide concern and not a  
21 municipal affair as that term is used in Section 5 of Article XI of  
22 the California Constitution.

23 SEC. 3. Section 65860.1 is added to the Government Code, to  
24 read:

25 65860.1. (a) Within 36 months of the adoption Central Valley  
26 Flood Protection Plan by the Central Valley Flood Protection  
27 Board pursuant to Section 9612 of the Water Code, but not more  
28 than 12 months after the amendment of its general plan pursuant  
29 to Section 65302.9, each city and county within the  
30 Sacramento-San Joaquin Valley shall amend its zoning ordinance  
31 so that it is consistent with the general plan, as amended.

32 (b) Notwithstanding any other provision of law, this section  
33 applies to all cities, including charter cities, and counties within  
34 the Sacramento-San Joaquin Valley. The Legislature finds and  
35 declares that flood protection in the Sacramento and San Joaquin  
36 Rivers drainage areas is a matter of statewide concern and not a  
37 municipal affair as that term is used in Section 5 of Article XI of  
38 the California Constitution.

39 SEC. 4. Section 65865.5 is added to the Government Code, to  
40 read:

1     65865.5. (a) Notwithstanding any other provision of law, after  
2     the amendments required by Section 65302.9 and 65860.1 have  
3     become effective, the legislative body of a city or county within  
4     the Sacramento-San Joaquin Valley shall not enter into a  
5     development agreement for any property that is located within a  
6     flood hazard zone unless the city or county finds, based on  
7     substantial evidence in the record, one of the following:

8     (1) The facilities of the State Plan of Flood Control or other  
9     flood management facilities protect the property to the urban level  
10    of flood protection in urban and urbanizing areas or the national  
11    Federal Emergency Management Agency standard of flood  
12    protection in nonurbanized areas.

13    (2) The city or county has imposed conditions on the  
14    development agreement that will protect the property to the urban  
15    level of flood protection in urban and urbanizing areas or the  
16    national Federal Emergency Management Agency standard of  
17    flood protection in nonurbanized areas.

18    (3) The local flood management agency has made adequate  
19    progress on the construction of a flood protection system which  
20    will result in flood protection equal to or greater than the urban  
21    level of flood protection in urban or urbanizing areas or the  
22    national Federal Emergency Management Agency standard of  
23    flood protection in nonurbanized areas for property located within  
24    a flood hazard zone, intended to be protected by the system.

25    (b) The effective date of amendments referred to in this section  
26    shall be the date upon which the statutes of limitation specified in  
27    subdivision (c) of Section 65009 have run or, if the amendments  
28    and any associated environmental documents are challenged in  
29    court, the validity of the amendments and any associated  
30    environmental documents has been upheld in a final decision.

31    SEC. 5. Section 65962 is added to the Government Code, to  
32    read:

33    65962. (a) Notwithstanding any other provision of law, after  
34    the amendments required by Sections 65302.9 and 65860.1 have  
35    become effective, each city and county within the Sacramento-San  
36    Joaquin Valley shall not approve any discretionary permit or other  
37    discretionary entitlement, or any ministerial permit that would  
38    result in the construction of a new residence, for a project that is  
39    located within a flood hazard zone unless the city or county finds,  
40    based on substantial evidence in the record, one of the following:

1     (1) *The facilities of the State Plan of Flood Control or other*  
2 *flood management facilities protect the project to the urban level*  
3 *of flood protection in urban and urbanizing areas or the national*  
4 *Federal Emergency Management Agency standard of flood*  
5 *protection in nonurbanized areas.*

6     (2) *The city or county has imposed conditions on the permit or*  
7 *discretionary entitlement that will protect the project to the urban*  
8 *level of flood protection in urban and urbanizing areas or the*  
9 *national Federal Emergency Management Agency standard of*  
10 *flood protection in nonurbanized areas.*

11     (3) *The local flood management agency has made adequate*  
12 *progress on the construction of a flood protection system which*  
13 *will result in flood protection equal to or greater than the urban*  
14 *level of flood protection in urban or urbanizing areas or the*  
15 *national Federal Emergency Management Agency standard of*  
16 *flood protection in nonurbanized areas for property located within*  
17 *a flood hazard zone, intended to be protected by the system.*

18     (b) *The effective date of amendments referred to in this section*  
19 *shall be the date upon which the statutes of limitation specified in*  
20 *subdivision (c) of Section 65009 have run or, if the amendments*  
21 *and any associated environmental documents are challenged in*  
22 *court, the validity of the amendments and any associated*  
23 *environmental documents has been upheld in a final decision.*

24     SEC. 6. *Section 66474.5 is added to the Government Code, to*  
25 *read:*

26     66474.5. (a) *Notwithstanding any other provision of law, after*  
27 *the amendments required by Sections 65302.9 and 65860.1 have*  
28 *become effective, the legislative body of each city and county within*  
29 *the Sacramento-San Joaquin Valley shall deny approval of a*  
30 *tentative map, or a parcel map for which a tentative map was not*  
31 *required, for any subdivision that is located within a flood hazard*  
32 *zone unless the city or county finds, based on substantial evidence*  
33 *in the record, one of the following:*

34     (1) *The facilities of the State Plan of Flood Control or other*  
35 *flood management facilities protect the subdivision to the urban*  
36 *level of flood protection in urban and urbanizing areas or the*  
37 *national Federal Emergency Management Agency standard of*  
38 *flood protection in nonurbanized areas.*

39     (2) *The city or county has imposed conditions on the subdivision*  
40 *that will protect the project to the urban level of flood protection*

1 *in urban and urbanizing areas or the national Federal Emergency*  
2 *Management Agency standard of flood protection in nonurbanized*  
3 *areas.*

4 *(3) The local flood management agency has made adequate*  
5 *progress on the construction of a flood protection system which*  
6 *will result in flood protection equal to or greater than the urban*  
7 *level of flood protection in urban or urbanizing areas or the*  
8 *national Federal Emergency Management Agency standard of*  
9 *flood protection in nonurbanized areas for property located within*  
10 *a flood hazard zone, intended to be protected by the system.*

11 *(b) The effective date of amendments referred to in this section*  
12 *shall be the date upon which the statutes of limitation specified in*  
13 *subdivision (c) of Section 65009 have run or, if the amendments*  
14 *and any associated environmental documents are challenged in*  
15 *court, the validity of the amendments and any associated*  
16 *environmental documents has been upheld in a final decision.*

17 *SEC. 7. Section 50465 is added to the Health and Safety Code,*  
18 *to read:*

19 *50465. (a) On or before January 1, 2009, the Department of*  
20 *Water Resources shall propose for adoption and approval by the*  
21 *California Building Standards Commission updated requirements*  
22 *to the California Building Standards Code for construction in*  
23 *areas protected by the facilities of the Central Valley Flood*  
24 *Protection Plan where flood levels are anticipated to exceed three*  
25 *feet for the 200-year flood event. The amendments to the California*  
26 *Building Standards Code shall be sufficient to reduce the risk of*  
27 *flood damage and to protect the construction in those areas.*

28 *(b) Before the department proposes the amendments to the*  
29 *California Building Standards Code required pursuant to*  
30 *subdivision (a), the department shall consult with the Central*  
31 *Valley Flood Protection Board, the Division of the State Architect,*  
32 *and the Office of the State Fire Marshal.*

33 *SEC. 8. Chapter 4 (commencing with Section 8200) is added*  
34 *to Part 1 of Division 5 of the Water Code, to read:*

35  
36 *CHAPTER 4. LOCAL PLANS OF FLOOD PROTECTION*  
37

38 *8200. This chapter shall be known and may be cited as the*  
39 *Local Flood Protection Planning Act.*

1     8201. (a) A local agency may prepare a local plan of flood  
2 protection in accordance with this chapter.

3     (b) A local plan of flood protection shall include all of the  
4 following:

5     (1) A strategy to meet the urban level of flood protection,  
6 including planning for residual flood risk and system resiliency.

7     (2) Identification of all types of flood hazards.

8     (3) Identification and risk assessment of the various facilities  
9 that provide flood protection for flood hazard areas, for current  
10 and future land uses.

11     (4) Identification of current and future flood corridors.

12     (5) Identification of needed improvements and costs of those  
13 improvements to the flood protection facilities that are necessary  
14 to meet flood protection standards for urban, rural, and small  
15 communities.

16     (6) An emergency response and evacuation plan for flood-prone  
17 areas.

18     (7) A strategy to achieve multiple benefits, including flood  
19 protection, groundwater recharge, ecosystem health, and reduced  
20 maintenance costs over the long term.

21     (8) A long-term funding strategy for improvement and ongoing  
22 maintenance and operation of flood protection facilities.

23     SEC. 9. Part 6 (commencing with Section 9600) is added to  
24 Division 5 of the Water Code, to read:

25  
26             PART 6. CENTRAL VALLEY FLOOD PROTECTION

27  
28                     CHAPTER 1. GENERAL PROVISIONS

29  
30     9600. This act shall be known and may be cited as the Central  
31 Valley Flood Protection Act of 2008.

32     9601. The Legislature finds and declares all of the following:

33     (a) The Central Valley of California is experiencing  
34 unprecedented development, resulting in the conversion of  
35 historically agricultural lands and communities to densely  
36 populated residential and urban centers.

37     (b) The Legislature recognizes that by their nature, levees, which  
38 are earthen embankments typically founded on fluvial deposits,  
39 cannot offer complete protection from flooding, but can decrease  
40 its frequency.

1     (c) *The Legislature recognizes that the level of flood protection*  
2 *afforded rural and agricultural lands by the original flood control*  
3 *system would not be adequate to protect those lands if they are*  
4 *developed for urban uses, and that a dichotomous system of flood*  
5 *protection for urban and rural lands has developed through many*  
6 *years of practice.*

7     (d) *The Legislature further recognizes that levees built to*  
8 *reclaim and protect agricultural land may be inadequate to protect*  
9 *urban development unless those levees are significantly improved.*

10    (e) *Cities and counties rely upon federal flood plain information*  
11 *when approving developments, but the information available is*  
12 *often out-of-date and the flood risk may be greater than that*  
13 *indicated using available federal information.*

14    (f) *Linking land use decisions to flood risk and flood protection*  
15 *estimates comprises only one element of improving lives and*  
16 *property in the Central Valley. Federal, state, and local agencies*  
17 *may construct and operate flood protection facilities to reduce*  
18 *flood risks, but flood risks will nevertheless remain for those who*  
19 *choose to reside in Central Valley flood plains. Making those flood*  
20 *risks more apparent will help ensure that Californians make careful*  
21 *choices when deciding whether to build homes or live in Central*  
22 *Valley flood plains, and if so, whether to prepare for flooding or*  
23 *maintain flood insurance.*

24    9602. *Unless the context requires otherwise, the definitions*  
25 *set forth in this section govern the construction of this article.*

26    (a) *“Board” means the Central Valley Flood Protection Board.*

27    (b) *“Plan” means the Central Valley Flood Protection Plan.*

28    (c) *“Public safety infrastructure” means public safety*  
29 *infrastructure necessary to respond to a flood emergency,*  
30 *including, but not limited to, street and highway evacuation routes,*  
31 *public utilities necessary for public health and safety, including*  
32 *drinking water and wastewater treatment facilities, and hospitals.*

33    (d) *“Sacramento-San Joaquin Valley” means any lands in the*  
34 *bed or along or near the banks of the Sacramento River or San*  
35 *Joaquin River, or any of their tributaries or connected therewith,*  
36 *or upon any land adjacent thereto, or within any of the overflow*  
37 *basins thereof, or upon any land susceptible to overflow therefrom.*  
38 *The Sacramento-San Joaquin Valley does not include lands lying*  
39 *within the Tulare Lake basin.*

1 (e) “State Plan of Flood Control” has the meaning set forth in  
2 subdivision (j) of Section 5096.805 of the Public Resources Code.

3 (f) “System” means the Sacramento-San Joaquin River Flood  
4 Management System described in Section 9611.

5 (g) “Urban level of flood protection” means the level of  
6 protection that is necessary to withstand flooding that has a  
7 1-in-200 chance of occurring in any given year.

8 9603. (a) Nothing in this part shall be construed to expand  
9 the liability of the state for the operation or maintenance of any  
10 flood management facility beyond the scope of the State Plan of  
11 Flood Control, except as specifically determined by the board  
12 pursuant to Section 9611. The adoption of the Central Valley Flood  
13 Protection Plan shall not be construed to constitute any  
14 commitment by the state to provide, to continue to provide, or to  
15 maintain at, or to increase flood protection to, any particular level.

16 (b) The Central Valley Flood Protection Plan reflects a  
17 systemwide approach to protecting the lands currently protected  
18 from flooding by existing facilities of the State Plan of Flood  
19 Control. Any flood protection benefits accruing to lands or  
20 communities outside the State Plan of Flood Control are incidental  
21 and shall not constitute any commitment by the state to provide,  
22 to continue to provide, or to maintain at, or to increase flood  
23 protection to, any particular level.

24  
25 *CHAPTER 2. PLAN DEVELOPMENT*  
26

27 9610. On or before December 31, 2010, the department shall  
28 prepare a strategic flood protection plan for the Sacramento-San  
29 Joaquin Valley, consistent with this part. The board shall make  
30 relevant maps available to the public and shall post these maps  
31 on its Internet Web site.

32 9611. The Sacramento-San Joaquin River Flood Management  
33 System comprises all of the following:

34 (a) The facilities of the State Plan of Flood Control as that plan  
35 may be amended pursuant to this part.

36 (b) Any existing dam, levee, or other flood management facility  
37 that is not part of the State Plan of Flood Control if the board  
38 determines, upon recommendation of the department in the plan,  
39 that the facility does one or more of the following:



1     *(1) Provides significant systemwide benefits for managing flood*  
2     *risks within the Sacramento-San Joaquin Valley.*

3     *(2) Protects urban areas within the Sacramento-San Joaquin*  
4     *Valley.*

5     *(c) Upon completion of the Central Valley Flood Protection*  
6     *Plan pursuant to this part, the department may identify and propose*  
7     *to the board additional structural and nonstructural facilities that*  
8     *may become facilities of the State Plan of Flood Control, consistent*  
9     *with the Central Valley Flood Protection Plan. The board may*  
10    *add those facilities to the State Plan of Flood Control based on a*  
11    *determination showing how the facility accomplishes the purposes*  
12    *identified in subdivision (b).*

13    *(d) For the purposes of subdivision (c), facilities that may*  
14    *become facilities of the State Plan of Flood Control include*  
15    *bypasses, floodway corridors, flood plain storage, or other projects*  
16    *that expand the capacity of the flood protection system in the*  
17    *Sacramento-San Joaquin Valley to provide flood protection.*

18    9612. *(a) The department shall prepare, and the board shall*  
19    *adopt, a plan identified as the Central Valley Flood Protection*  
20    *Plan in accordance with this part.*

21    *(b) No later than January 1, 2012, the department shall prepare*  
22    *the Central Valley Flood Protection Plan in accordance with this*  
23    *part, and shall transmit the plan to the board, which shall adopt*  
24    *the plan no later than July 1, 2012.*

25    *(c) The board shall hold at least two hearings to receive*  
26    *comments on the proposed plan. At least one hearing shall be held*  
27    *in the Sacramento Valley and at least one hearing shall be held*  
28    *in the San Joaquin Valley. The board shall also accept comments*  
29    *in writing with regard to the proposed plan.*

30    *(d) The board may make changes to the proposed plan to resolve*  
31    *issues raised in the hearings or to respond to comments received*  
32    *by the board. The board shall publish its proposed changes to the*  
33    *proposed plan at least two weeks before adopting the plan.*

34    *(e) The plan shall be updated in subsequent years ending in 0*  
35    *and 5.*

36    *(f) The department or the board may appoint one or more*  
37    *advisory committees to assist in the preparation of the plan. If the*  
38    *department or the board appoints one or more advisory*  
39    *committees, the advisory committee or committees shall include*  
40    *representation by interested organizations.*

1 (g) Prior to adopting the plan required pursuant to subdivision  
2 (a), the department shall prepare and certify an environmental  
3 impact report for the plan pursuant to Division 13 (commencing  
4 with Section 21000) of the Public Resources Code.

5 9613. (a) Consistent with subdivision (b) of Section 5096.821  
6 of the Public Resources Code, the department may implement flood  
7 protection improvements for urban areas protected by facilities  
8 of the State Plan of Flood Control before the adoption of Central  
9 Valley Flood Protection Plan if the director determines, in writing,  
10 that all of the following apply:

11 (1) The improvements are necessary to address an urgent and  
12 significant risk of flooding and require state funding before the  
13 completion of the Central Valley Flood Protection Plan prepared  
14 pursuant to Section 9612.

15 (2) The improvements will reduce or avoid risk to human life  
16 in one or more urban areas and do not transfer significant flood  
17 risks to other urban areas.

18 (3) The improvements will not impair or impede future changes  
19 to regional flood protection or the Central Valley Flood Protection  
20 Plan.

21 (4) The improvements will be maintained by a local agency that  
22 has committed sufficient funding to maintain both the existing and  
23 improved facilities of the State Plan of Flood Control.

24 (5) The affected cities, counties, and other public agencies have  
25 sufficient revenue resources for the operation and maintenance of  
26 the facility.

27 (6) Upon the allocation of funds for a project, the proposed  
28 project is ready for implementation.

29 (7) The improvements may provide public benefits in addition  
30 to flood protection.

31 (8) The improvements comply with existing law.

32 (b) The flood protection improvements authorized by this section  
33 may include improvements to specific facilities of the State Plan  
34 of Flood Control or acquisition of flood easements for floodways  
35 that support facilities of the State Plan of Flood Control to increase  
36 levels of flood protection for urban areas in accordance with  
37 subdivision (b) of Section 5096.821 of the Public Resources Code.

38 (c) The department and the board shall investigate, develop,  
39 and establish a floodway or bypass, acquire land, or construct

1 *one or more facilities to significantly reduce flood stage in the San*  
2 *Joaquin River Watershed, upstream and south of Paradise Cut.*

3 *9614. The plan shall include all of the following:*

4 *(a) A description of the Sacramento-San Joaquin River Flood*  
5 *Management System and the cities and counties included in the*  
6 *system.*

7 *(b) A description of the performance of the system and the*  
8 *challenges to modifying the system to provide appropriate levels*  
9 *of flood protection.*

10 *(c) A description of the facilities included in the State Plan of*  
11 *Flood Control, including all of the following:*

12 *(1) The precise location and a brief description of each facility,*  
13 *a description of the population and property protected by the*  
14 *facility, the system benefits provided by the facility, if any, and a*  
15 *brief history of the facility, including the year of construction,*  
16 *major improvements to the facility, and any failures of the facility.*

17 *(2) The design performance of each facility.*

18 *(3) A description and evaluation of the performance of each*  
19 *facility, including the following:*

20 *(A) An evaluation of failure risks due to each of the following:*

21 *(i) Overtopping.*

22 *(ii) Under seepage.*

23 *(iii) Structural failure.*

24 *(iv) Seismic events.*

25 *(v) Other sources of risk that the department or the board*  
26 *determines are applicable.*

27 *(B) A description of any uncertainties regarding performance*  
28 *capability, including uncertainties arising from the need for*  
29 *additional engineering evaluations or uncertainties arising from*  
30 *changed conditions such as changes in estimated channel*  
31 *capacities.*

32 *(d) A description of each existing dam that is not part of the*  
33 *State Plan of Flood Control that provides either significant*  
34 *systemwide benefits for managing flood risks within the*  
35 *Sacramento-San Joaquin Valley or protects urban areas within*  
36 *the Sacramento-San Joaquin Valley, including all of the following*  
37 *information:*

38 *(1) The precise location and a brief description of each facility,*  
39 *a description of the population and property protected by the*  
40 *facility, and a brief history of the facility, including the year of*

1 construction, major improvements to the facility, and any  
2 uncontrolled releases of the facility.

3 (2) The standard project flood event upon which the flood  
4 operation rules were based.

5 (3) A description of downstream conditions upon which the  
6 flood operation rules were based, including estimated channel  
7 capacities, level of urban development, and other conditions that  
8 the department or the board determines to be relevant.

9 (4) A description of changes in downstream conditions since  
10 the flood operation rules were established.

11 (e) A description of each existing levee and other flood  
12 management facility not described in subdivision (d) that is not  
13 part of the State Plan of Flood Control that provides either  
14 significant systemwide benefits for managing flood risks within  
15 the Sacramento-San Joaquin Valley or protects urban areas within  
16 the Sacramento-San Joaquin Valley, including all of the following  
17 information:

18 (1) The precise location and a brief description of each facility,  
19 a description of the population and property protected by the  
20 facility, the system benefits provided by the facility, if any, and a  
21 brief history of the facility, including the year of construction,  
22 major improvements to the facility, and any failures of the facility.

23 (2) The design performance of each facility.

24 (3) A description and evaluation of the performance of each  
25 facility, including the following:

26 (A) An evaluation of failure risks due to each of the following:

27 (i) Overtopping.

28 (ii) Under seepage.

29 (iii) Structural failure.

30 (iv) Seismic events.

31 (v) Other sources of risk that the department or the board  
32 determines are applicable.

33 (B) A description of any uncertainties regarding performance  
34 capability, including uncertainties arising from the need for  
35 additional engineering evaluations or uncertainties arising from  
36 changed conditions such as changes in estimated channel  
37 capacities.

38 (f) A description of the probable impacts of projected climate  
39 change, projected land use patterns, and other potential flood

1 *management challenges on the ability of the system to provide*  
2 *adequate levels of flood protection.*

3 *(g) An evaluation of the structural improvements necessary to*  
4 *bring each of the facilities of the State Plan of Flood Control to*  
5 *within its design standard. The evaluation shall include a*  
6 *prioritized list of recommended actions necessary to bring each*  
7 *facility not identified in subdivision (h) to within its design*  
8 *standard.*

9 *(h) The evaluation shall include a list of facilities recommended*  
10 *to be removed from the State Plan of Flood Control. For each*  
11 *facility recommended for removal, the evaluation shall identify*  
12 *both of the following:*

13 *(1) The reasons for proposing the removal of the facility from*  
14 *the State Plan of Flood Control.*

15 *(2) Any additional recommended actions associated with*  
16 *removing the facility from the State Plan of Flood Control.*

17 *(i) An evaluation of both structural and nonstructural methods*  
18 *for providing an urban level of flood protection to currently*  
19 *urbanized areas in the Sacramento-San Joaquin Valley. The*  
20 *evaluation shall include a prioritized list of recommended actions*  
21 *to improve urban flood protection.*

22 *(j) An evaluation of structural and nonstructural means for*  
23 *enabling systemwide riverine ecosystem function, including, but*  
24 *not limited to, establishment of riparian habitat and seasonal*  
25 *inundation of available flood plains where feasible.*

26 *9615. For the purposes of preparing the plan, the department*  
27 *shall collaborate with the United States Army Corps of Engineers*  
28 *and the owners and operators of flood management facilities.*

29 *9616. (a) The plan shall include a description of both*  
30 *structural and nonstructural means for improving the performance*  
31 *and elimination of deficiencies of levees, weirs, bypasses, and*  
32 *facilities, including facilities of the State Plan of Flood Control,*  
33 *and, wherever feasible, a prioritized description of actions intended*  
34 *to meet multiple objectives, including each of the following:*

35 *(1) Reduce the risk to human life, health, and safety from*  
36 *flooding.*

37 *(2) Expand the capacity of the flood protection system in the*  
38 *Sacramento-San Joaquin Valley to either reduce floodflows or*  
39 *convey floodwaters away from urban areas.*

- 1     (3) *Link the flood protection system with the water supply*  
2 *system.*
- 3     (4) *Reduce flood risks in currently nonurbanized areas.*
- 4     (5) *Increase the engagement of local agencies willing to*  
5 *participate in improving flood protection, ensuring a better*  
6 *connection between state flood protection decisions and local land*  
7 *use decisions.*
- 8     (6) *Improve flood protection for urban areas to the urban level*  
9 *of flood protection.*
- 10    (7) *Provide sufficient flood protection for small communities*  
11 *and rural areas to a standard deemed appropriate by the*  
12 *department.*
- 13    (8) *Promote natural dynamic hydrologic and geomorphic*  
14 *processes.*
- 15    (9) *Reduce damage from flooding.*
- 16    (10) *Increase and improve the quantity, diversity, and*  
17 *connectivity of riparian, wetland, flood plain, and shaded riverine*  
18 *aquatic habitats, including the agricultural and ecological values*  
19 *of these lands.*
- 20    (11) *Minimize the flood management system operation and*  
21 *maintenance requirements.*
- 22    (12) *Promote the recovery and stability of native species*  
23 *populations and overall biotic community diversity.*
- 24    (13) *Identify opportunities and incentives for expanding or*  
25 *increasing use of floodway corridors.*
- 26    (14) *Provide a feasible, comprehensive, and long-term financing*  
27 *plan for implementing the plan.*
- 28    (15) *Identify the responsibilities of federal, state, regional, and*  
29 *local agencies for flood protection in the Sacramento-San Joaquin*  
30 *Valley.*
- 31    (16) *Identify opportunities for reservoir reoperation in*  
32 *conjunction with groundwater flood storage.*
- 33    (b) *The plan shall include a prioritized list of recommended*  
34 *actions and a schedule of implementation for all the recommended*  
35 *actions to reduce these flood risks and meet the objectives*  
36 *described in subdivision (a).*

CHAPTER 3. PLAN IMPLEMENTATION

9620. Upon the adoption of the plan by the board, all of the following apply:

(a) The facilities identified pursuant to subdivision (c) of Section 9614 shall be deemed to be part of the system.

(b) The board shall take all actions necessary to remove facilities identified pursuant to subdivision (h) of Section 9614 from the State Plan of Flood Control.

(c) The department shall prepare, and the board shall adopt, a schedule of implementation for all of the recommended actions. The schedule shall include a proposed funding plan.

9621. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each county shall collaborate with cities within its jurisdiction to develop flood emergency plans within 24 months of the adoption of the plan.

9622. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to provide relocation assistance or other cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas.

9623. Consistent with the adoption of the Central Valley Flood Protection Plan pursuant to this part, each city, county, and city and county shall collaborate with the state and local flood management agencies to develop funding mechanisms to finance local flood protection responsibilities within 24 months of the adoption of the plan.

9624. Notwithstanding any other provision of law, this part applies to all cities, including charter cities, and counties included in the plan pursuant to Section 9614. The Legislature finds and declares that flood protection in the Sacramento-San Joaquin Valley is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

9625. (a) By January 1, 2010, the department shall develop a cost-sharing formula, as needed, for funds made available by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division

1 5 of the Public Resources Code) and the Safe Drinking Water,  
2 Water Quality and Supply, Flood Control, River and Coastal  
3 Protection Bond Act of 2006 (Division 43 (commencing with  
4 Section 75001) of the Public Resources Code) for repairs or  
5 improvements of facilities included in the plan to determine the  
6 local share of the cost of design and construction.

7 (b) In developing a cost-share formula, the department shall  
8 consider the ability of local governments to pay their share of the  
9 capital costs of the project.

10 (c) Prior to finalizing a cost-share formula, the department shall  
11 conduct public meetings to consider public comments. The  
12 department shall post the draft cost-share formula on its Internet  
13 Web site at least 30 days before the public meetings. To the extent  
14 feasible, the department shall provide outreach to disadvantaged  
15 communities to promote access and participation in the meetings.

16 9626. (a) On or before September 1, 2010, and on or before  
17 September 1 of each year thereafter, the department shall provide  
18 written notice to each landowner whose property is determined to  
19 be entirely or partially within a flood hazard zone.

20 (b) The notice shall include statements regarding all of the  
21 following:

22 (1) The property is located behind a levee.

23 (2) Levees reduce, but do not eliminate, the risk of flooding and  
24 are subject to catastrophic failure.

25 (3) If available, the level of flood risk as described in the plan.

26 (4) The state recommends that property owners in a flood hazard  
27 zone obtain flood insurance, such as insurance provided by the  
28 Federal Emergency Management Agency through the National  
29 Flood Insurance Program.

30 (5) Information about purchasing federal flood insurance.

31 (6) The Internet address of the Web site that contains the  
32 information described in the plan.

33 (7) Any other information determined by the department to be  
34 relevant.

35 (c) Each county, with assistance from the department, shall  
36 annually provide to the department, by electronic means, public  
37 records consisting of lists of names and addresses of property  
38 owners in any flood hazard zone identified by the department  
39 located in that county.



1     (d) Notwithstanding any other provision of the law, the  
2     department may enter into contracts with private companies to  
3     provide the notices required by this section.

4     SEC. 10. If the Commission on State Mandates determines that  
5     this act contains costs mandated by the state, reimbursement to  
6     local agencies and school districts for those costs shall be made  
7     pursuant to Part 7 (commencing with Section 17500) of Division  
8     4 of Title 2 of the Government Code.

9     SEC. 11. This act shall become operative only if Assembly Bill  
10    5 and Senate Bill 17 of the 2007–08 Regular Session of the  
11    Legislature are enacted and become operative.

12  
13  
14     **All matter omitted in this version of the bill**  
15     **appears in the bill as amended in the**  
16     **Assembly, August 20, 2007. (JR11)**  
17